

## **Office of Civil Rights Title IX Complaint**

April 25, 2019

Submitted by:

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Institution that committed the alleged discriminatory acts:

Community High School  
401 North Division Street  
Ann Arbor, MI 48104

### **Introduction**

I am submitting this complaint as the parent of a student at Community High School, regarding the Ann Arbor Public Schools' systemic and ongoing mishandling of sexual assault cases. My student has not been a victim of sexual assault; my motivation in filing this complaint is to ensure transparency and accountability on the part of the school. My hope is that external awareness will result in enforced and appropriate compliance of Title IX, and improved school policies regarding student on student sexual assault.

Community High School discriminates against female students on the basis of sex because it handles cases of sexual assault with deliberate indifference, and fails to protect its students from future assaults. My complaint specifically refers to incidents at Community High School under the leadership of Dean Marci Tuzinsky.

This complaint documents both systemic and individual non-compliance of procedures when a sexual assault occurs at school. Dean Tuzinsky has repeatedly acted, and instructed her staff to act, in a manner that is not compliant with Title IX guidelines. The school has failed to notify police when sexual assaults occur, despite staff being mandatory reporters in the state of Michigan. The school does not complete Title IX documentation forms, despite being obligated to do so per school policies.

And in at least one case, the school did not notify the victim's parent that an incident of sexually inappropriate touching had occurred. It is not known whether the school notified the parents of victims in the eleven other cases noted in this complaint.

Teachers at Community High School are aware of the incidents in this complaint, and have attempted to report Dean Tuzinsky's decisions regarding sexual assaults. They were told to keep quiet and given veiled threats of job transfers or job loss.

I attempted to gather data on incidents of sexual assault at the school. I had hoped to triangulate the data between police records and school records, because when a student is sexually assaulted, it should be documented with both the police and the school district. The Freedom of Information Act requests I submitted, and the various replies, are included in this complaint. School staff notified police exactly one time, and did not file any Title IX forms for the twelve incidents in this complaint.

Under Title IX, schools are required to promptly and effectively investigate claims of sexual harassment and sexual violence, take immediate action to eliminate it, prevent its recurrence, and address its effects. Community High School, under its current leadership, has not come close to doing any of these things. In fact, the school sometimes appears to be in direct opposition to Title IX goals.

I respectfully request a waiver for the 180-day filing requirement. Teachers have been aware of the situation for some time, but internal efforts to change things were met with threats of retaliation. I am preserving their anonymity in this document, and can provide names to an investigator from the Office of Civil Rights.

### **Systemic mishandling of sexual assault cases**

Multiple instances of sexual assault have occurred at Community High School that lack an appropriate school response, notification of proper authorities, and proper documentation. Nevertheless, they happened and can be verified by teachers at the school.

a. There is a student currently attending Community High School who has perpetrated nine incidents of sexual assault against fellow students. That student remains at Community High School. Teachers and administration are not supportive of the situation, but the administration's stance is that they are not able to expel him. The family of the student maintains that he is entitled to an education at this school.

b. In November 2016, an expelled former Community High School student was banned from all school district buildings after committing a crime. Dean Tuzinsky instructed school staff to keep the building on lockdown in the event that the former student should attempt entry. One day, Dean Tuzinsky learned that the student was at the coffee shop across the street, and walked over and talked to the student at length. They discussed the possibility of his returning to Community. The next day, the student gained entry into the Community building, backed a female

student into the art room, and raped her. They are both visible in the hallway on the school's security video. Dean Tuzinsky learned of the rape on Monday via the security video, and did not report it to police.

A teacher attempted to report the rape and the handling of it to Mr. Paul DeAngelis, Title IX Coordinator and the AAPS administrative staff person directly above Dean Tuzinsky. The teacher requested anonymity and discretion in reporting it. The teacher was subsequently threatened with a job transfer by Dean Tuzinsky, who said she learned about the teacher's complaint from Superintendent Jeanice Swift.

Documents attached related to the above statements:

- FOIA replies from AAPS will show a lack of evidence, or alternately show evidence of suppression of the events; no Title IX Complaint Forms were filed for these ten incidents
- FOIA replies from Ann Arbor Police Department will show a lack of evidence, or alternately show evidence of suppression of the events; none of these ten incidents were reported to the police

Documents that the Office of Civil Rights could request when investigating these incidents:

None. No police reports were filed by the school. No Title IX Complaint Forms were filed by the school.

Teachers can be interviewed to provide corroborating statements.

### **Mishandling of an individual sexual assault case**

On September 19, 2018 a boy sexually assaulted a girl in the hallway at Community High School. The entire incident was recorded on the school's security camera. The boy forcibly kissed the girl, groped both her breasts, and put his hands down her pants. It is evident from the video that the girl struggled to free herself.

On September 27, 2018 the girl and a friend told school personnel that the same boy had touched them inappropriately. At the time, the girl did not tell the whole story of the assault. The girls' parents were not notified, the police were not notified, and school personnel did not document, investigate, report, or follow up on the incidents in any way.

On September 27, 2018, school personnel spoke with the boy, who admitted that he touched the girls inappropriately. School staff warned him that his behavior could

have repercussions, and warned him not to have verbal or physical contact with either girl.

On October 1, 2018 the girl told her mother that she had been sexually assaulted, and mother immediately said that they needed to tell the school. Girl responded that she had already notified the school. Mother drove to school and spoke with Assistant Dean Rebecca Westrate. At this time, Mother notified school that the sexual assault took place in the school hallway within view of a security camera.

On October 2, 2018, the school reviewed the security video footage of the incident.

On October 3, 2018, school personnel notified the boy's parents of the incident, and he was given a three-day suspension over the weekend, resulting in him missing a weekend all-school event and two days of school.

On October 8, 2018, the boy was back in school and still in four of the girl's eight classes. Mother requested that he be taken out of her classes and have no further contact with girl. The school told Mother that they should have rearranged classes but didn't have time given his limited suspension over a weekend. Mother changed two of girl's classes immediately; at this time the boy's schedule was not altered. About a week later, a teacher contacted Mother to ask how she wanted to handle contact between girl and boy in her classroom. At this point, the teacher adjusted the boy's schedule, removing him from the girl's remaining two shared classes.

Mother asked questions about any repercussions the boy faced. Dean Tuzinsky responded that mother should file a police report if she wanted her questions answered. Mother has filed a police report; girl was unable to complete a victim interview because she found the interview process frightening.

To reiterate the gravity of this situation: Dean Tuzinsky is a mandatory reporter, and did not call the police to report a sexual assault. Instead, she suggested that the girl's mother could call the police if she chose.

Mother asked what else the school was doing to ensure girl's safety. Dean Tuzinsky instructed the school's security staff to physically follow girl from class to class.

On October 9, 2018, Mother filled out a Title IX Complaint Form to document the entire situation. No school staff ever filed a form on the girl's behalf, despite multiple adults knowing of the entire situation, including the video evidence.

On November 2, 2018, the AAPS Title IX Coordinator, Paul DeAngelis, responded to the Mother with a Title IX Investigation Report.

Mr. DeAngelis' reply maintained that AAPS had done nothing wrong in their handling of the sexual assault incident with the girl. However, Mr. DeAngelis' version of the event contained factual inaccuracies as follows:

- the name and instructional level of the school where the event took place is inaccurate
- the incident is described as "sexual harassment" rather than the more accurate and more serious "sexual assault"
- the report states that boy's schedule was altered; in reality, mother altered girl's schedule as soon as she learned that no changes had been made to minimize contact in four of eight classes; boy's schedule was altered a week later; in the end, each of them changed two of their classes, but only at mother's request
- report states "numerous interim measures were implemented for the protection of the students involved" but neither mother nor girl are aware of additional measures to protect the girl

On or around November 28, 2018, Dean Tuzinsky told Mother in a phone call that there is a student in the district who has assaulted nine girls, and there is nothing that can be done about it. Dean Tuzinsky said that perpetrators are entitled to an education. In the same conversation, Dean Tuzinsky told Mother that we just need to mentally toughen the girl up.

The girl is no longer attending Community High School. Both girl and mother feel that the school is no longer the best option for the girl's education, given the described events. Mother has enrolled girl in a private school.

The school never notified police of the incident, despite it clearly being second degree Criminal Sexual Conduct. The school also never filled out a Title IX form, despite the district's policy that this must be done by personnel.

Anecdotal stories from other female students indicate that through autumn of 2018, the boy continued to interact with girls in ways that made them uncomfortable.

Mother has reviewed and approved these statements for accuracy and thoroughness. I am preserving her anonymity in this document; she is willing to be interviewed by the Office of Civil Rights.

Documents attached related to the above statements:

- Mother's Title IX Complaint Form
- AAPS' response to mother's complaint

Documents that the Office of Civil Rights could request when investigating this incident:

- Police report filed by mother
- Girl's class schedule including revision history
- Boy's class schedule including revision history
- Any Community High School documentation of the event, including video

### **Attempts to gather information**

#### **a. Ann Arbor Public Schools policy**

Per the Ann Arbor Public Schools Title IX procedures, "Any District employee who either reasonably believes a student has been discriminated against based on sex or who receives a complaint of sex discrimination, harassment or violence from a student must immediately submit the Complaint Form to the Responsible Administrator. This reporting obligation is in addition to a school employee's reporting obligations to appropriate officials pursuant to law and the District Child Abuse or Neglect Reporting Guidelines when the employee has a reasonable belief that a student is being sexually abused or subjected to other forms of abuse or neglect prohibited by law.

#### **b. Freedom of Information Act Requests (FOIAs)**

I tried to find corroborating evidence or data related to all of the above. I submitted Freedom of Information Act requests to Ann Arbor Public Schools and to the Ann Arbor Police Department. Those documents are attached, with a narrative of each one provided here.

On January 10, 2019 I requested the following data from Ann Arbor Public Schools via a Freedom of Information (FOIA) Request:

*Incidents of rape, attempted rape, or sexual assault other than rape in 2016, 2017, and 2018 at Community High School.*

The AAPS response on January 25, 2019 (significantly beyond the allotted FOIA time) was this:

*After a diligent search and to the best of our knowledge, the records do not exist within the records of the Ann Arbor Public Schools.*

On February 19, 2019, I requested the following data from Ann Arbor Public Schools via a Freedom of Information (FOIA) Request:

*A copy of all Title IX Complaint Forms submitted to the Title IX Coordinator or Responsible Administrator, regarding all acts and forms of sex discrimination,*

*including sexual harassment and sexual assault, that occurred on the campus of Community High School for the calendar years 2015, 2016, 2017, and 2018. This includes forms submitted by employees of the Ann Arbor Public Schools as well as forms submitted by Complainants.*

The school ignored this FOIA request for more than five days, which is the same as a denial in the state of Michigan. See below for additional actions taken on this FOIA.

On February 21, 2019, I requested the following data from Ann Arbor Public Schools via a Freedom of Information (FOIA) Request:

*I would like to receive a report for all of the public high schools in the Ann Arbor Public School system, Ann Arbor, Michigan, as described below in the Michigan State Law, enacted in 2015. I would like this report for EVERY year it has been created:*

*Pursuant to Public Act 102 of 1999, MCL 380.1310a, each school board shall report to the superintendent of public instruction, in the form and manner prescribed by the superintendent of public instruction, incidents of crime occurring at school within the school district.*

*At least annually, each school board shall make a copy disaggregated by school building, of the most recent report for the school district available to the parent or legal guardian of each pupil enrolled in the school district.*

*Reports of crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes, include, but are not limited to the following incidents:*

- *Armed Student or Hostage*
- *Arson*
- *Bomb Threat*
- *Death or Homicide*
- *Drive-By Shooting*
- *Explosion*
- *Illegal Drug Use/Overdose*
- *Illegal Drug Possession/Sale*
- *Intruders*
- *Larceny*
- *Minor in Possession of Alcohol/Tobacco Products*
- *Physical Assault (Fights)*
- *Robbery or Extortion*
- *Sexual Assault (CSC)*

- *Suicide Attempt*
- *Suspected Armed Student*
- *Threat of Suicide*
- *Unauthorized Removal of Students*
- *Vandalism/Destruction of Property*
- *Weapons on School Property*

The school ignored this FOIA request for more than five days, which is the same as a denial in the state of Michigan.

Because the February 19 and February 21 FOIA requests were both ignored/denied, I appealed to the Superintendent, Dr. Jeanice Swift, as per FOIA protocol. I submitted the appeal on March 1, 2019.

The AAPS response on March 8, 2019 to my February 21 FOIA (significantly beyond the allotted FOIA time) was this:

The school sent me one Title IX Complaint Form, and it was the one filled out by the Mother on October 9, 2018.

To reiterate the gravity of this situation: the school has in its possession exactly one Title IX Complaint Form completed by anyone in the past four calendar years, and it was filled out by the mother of a victim, even though school personnel had knowledge of that assault five days prior to the mother learning about it.

The AAPS response on March 22, 2019 to my February 22 FOIA (significantly beyond the allotted FOIA time) was this:

*The information you are requesting is located at [ocrdata.ed.org](http://ocrdata.ed.org) [sic]. It is the same sight [sic] that you go to for the CRDC data. You can enter in any school and pick the school year and then if you scroll down to the last page and on the right hand side is a section called Additional Discipline and Bullying Facts where you will see the information for the Ann Arbor Public Schools data.*

To summarize this situation: the school is required by Michigan Law to create a report of twenty different crimes and their occurrence each school year, and to provide that report to any parent of a student in the district who requests it. I requested it for every year since 2015, and I had to appeal to the Superintendent to get a response. The school's reply was a website with data from 2015 that does not contain the information required by the Michigan law.

For reference, the Civil Rights Data Collection website shows that Community High School had zero rapes, zero attempted rapes, and zero non-rape sexual assaults for the reporting year 2015. No further data is available on that site for any other year.



On February 4, 2019 and February 14, 2019 I requested the following data from Ann Arbor Police Department via two Freedom of Information (FOIA) Requests:

*I would like to receive a report of all sexual assault cases and sex crimes and physical assault occurring at Community High School (401 North Division Street, Ann Arbor, 48104) for the calendar years 2015, 2016, 2017, and 2018.*

After a clarifying phone call with police, they sent a complete record of all Calls for Service for the four-year period at Community High School. There was only one phone call made to police from the school regarding sexual assault in the four-year period. It was on November 29, 2018 at 1:55 pm. The verified offense, per police records, was *CSC [criminal sexual conduct] First Degree - Penetration Penis/Vagina*.

Interestingly, this incident was not corroborated with a Title IX Complaint Form.

To summarize, I asked the police for records to corroborate the account of nine sexual assaults, and the alleged rape in the art room. The police were only aware of one incident, and it was an entirely different incident than any of the ten I was seeking verification for.

Documents attached related to the above statements:

- Ann Arbor Public Schools FOIAs
- Ann Arbor Police Department FOIAs

Documents that the Office of Civil Rights could request related to the above statements: None.

Teachers can be interviewed to provide corroborating statements.

### **Teachers' attempts to speak up**

Multiple teachers at Community High School are aware of the student who has sexually assaulted nine other students. Multiple teachers are also aware of the art room rape. Teachers have attempted to report the incidents to district-level staff above Dean Tuzinsky, and have been told that if they aren't happy in the school, they can be transferred. They have been told that if they can't be team players, they shouldn't be on the team.

### **Conclusion**

I am submitting this complaint in hopes that things will improve.

Community High School's student handbook states "prevention, intervention, and support" as the guiding commitments for its policies on nicotine, alcohol, and controlled substances.

I would like the Ann Arbor Public Schools, and Community High School, to use prevention, intervention, and support as its motivational commitments for a revised approach to student on student sexual assault.

Specifically, I request that:

- The district review and update school policies, the employee handbook, and the student handbook, specifically updating the sexual harassment and assault policies with significant input and guidance from professionals who specialize in Title IX issues.
- All faculty and staff be trained in Title IX, other civil rights laws, policies and procedures, by a professional who specializes in Title IX issues.
- All faculty and staff be trained to receive complaints of sexual harassment and assault compassionately and effectively, by a professional who specializes in Title IX issues.

#### **List of supporting documents provided to the Office of Civil Rights**

1. Mother's Title IX Complaint Form
2. Ann Arbor Public Schools' response to Mother's Title IX Complaint
3. Ann Arbor Public Schools FOIA request: rape, attempted rape, and non-rape sexual assault
4. Ann Arbor Public Schools FOIA response: rape, attempted rape, and non-rape sexual assault
5. Ann Arbor Public Schools FOIA request - Title IX Complaint Forms specific to Community High School, years 2015 through 2018
6. Ann Arbor Public Schools FOIA request - report referenced in Michigan law
7. Ann Arbor Public Schools FOIA appeal - Title IX Complaint Forms and Michigan law
8. Ann Arbor Public Schools FOIA response - Title IX Complaint Forms specific to Community High School, years 2015 through 2018
9. Ann Arbor Public Schools FOIA response - report referenced in Michigan law
10. Ann Arbor Police Department FOIA request - sexual assaults
11. Ann Arbor Police Department FOIA request - physical assaults
12. Ann Arbor Police Department FOIA response - calls for service at Community High School, 2015 through 2018